

***IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA***

<i>SHIRLEY A. BANKS-BENNETT,</i>	:	<i>1: CV-01-1241</i>
	:	
<i>Plaintiff</i>	:	
	:	
<i>v.</i>	:	<i>JUDGE KANE</i>
	:	
<i>INGRAM MICRO U.S., et al,</i>	:	
	:	<i>ELECTRONICALLY FILED</i>
<i>Defendants</i>	:	

**MOTION TO STRIKE PLAINTIFF'S
“MOTION FOR SUMMARY JUDGMENT” AND
“PLAINTIFF BRIEF IN SUPPORT OF MOTION FOR SUMMARY”**

AND NOW, come Defendants, by their attorney, Paul J. Dellasega, Esquire, who respectfully move this Court to strike Plaintiff's “Motion for Summary Judgment” for failure to comply with the Local Rules:

1. Plaintiff is proceeding pro se in this matter.
2. On March 15, 2004, Plaintiff filed with the Court a “Motion for Summary Judgment”. The Motion is virtually unintelligible as it fails to address any legal issue arising out of the factual allegations of the Complaint.
3. Local Rule 56.1 states as follows:

“A Motion for Summary Judgment filed pursuant to Federal Rule of Civil Procedure 56, shall be accompanied by separate, short and concise statement of the material facts, in numbered paragraphs, as to which

the moving party contends there is no genuine issue to be tried. The papers opposing a Motion for Summary Judgment shall include a separate, short and concise statement of the material facts, responding to the numbered paragraphs set forth in the statement required in the foregoing paragraph, as to which it has contended that there exists a genuine issue to be tried. Statements of material facts in support of, or in opposition to, a motion shall include references to the parts of the record that supports the statements. All material facts set forth in this statement require to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.”

4. Plaintiff has failed to comply with Local Rule 56.1 in that her Motion for Summary Judgment was not accompanied by a Statement of Undisputed Material Facts.

5. Plaintiff has further failed to comply with Local Rule 56.1 in that her Motion for Summary Judgment does not include references to the parts of the record supporting the facts contained in her “Brief in Support of Motion for Summary”.

6. On July 30, 2003, The Honorable Yvette Kane entered a Case Management Order in this matter directing that all Dispositive Motions and Supporting Briefs were to be filed by March 1, 2004. A true and correct copy of Judge Kane’s Order is attached hereto and marked Exhibit “A”.

7. Plaintiff has failed to comply with the Case Management Order in that her Motion for Summary Judgment and "Plaintiff Brief in Support of Motion for Summary" was not filed with this Court until March 15, 2004.

8. Local Rule 7.8 states as follows:

"(a) Contents of Briefs. Brief shall contain complete citations of all authorities relied upon, including whenever practicable, citations to both official and unofficial reports. No brief may incorporate by reference all or any portion of another brief. A copy of any unpublished opinion which is cited must accompany the brief as an attachment. The brief of the moving party shall contain a procedural history of the case, a statement of facts, a statement of questions involved, and argument. The brief of the opposing party may contain a counter statement of material facts and of the questions involved and a counter history of the case. If counter statements of facts or questions involved are not filed, the statements of the moving party will be deemed adopted..."

9. Plaintiff has failed to comply with Local Rule 7.8 in that neither her Motion for Summary Judgment or Brief in Support contain a statement of the facts, a procedural history of the case, or a statement of questions involved and her argument portion is unintelligible.

WHEREFORE, Defendants pray the Court to strike Plaintiff's Motion for Summary Judgment and Brief in Support.

Respectfully submitted,

THOMAS, THOMAS & HAVER, LLP

s/Paul J. Dellasega

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Attorneys for Defendants

DATE: March 19, 2004
:283434.1

CERTIFICATE OF SERVICE

I, Paul J. Dellasega, attorney with the law firm of Thomas, Thomas & Hafer, LLP, hereby certify that a copy of the foregoing document was served upon the following, by enclosing a true and correct copy in an envelope addressed as follows, postage prepaid:

Shirley A. Banks-Bennett
2649 Waldo Street
Harrisburg, PA 17110

THOMAS, THOMAS & HAFER, LLP

s/Paul J. Dellasega

Paul J. Dellasega

DATED: March 19, 2004